

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

WRONGFUL DEATH ESTATE
OF MIGUEL GONZÁLEZ,
by and through Wrongful Death
Estate Personal Representative
Joanna Rodríguez,

JOANNA RODRIGUEZ, on her
own behalf and as
Mother and Next Friend of
ME Gonzalez, a minor child,
DJ Gonzalez, a minor child,
and AX Gonzales, a minor child,

Plaintiffs,

vs.

No. CV 18-125 KG/LF

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF BERNALILLO, NEW
MEXICO, MANUEL GONZALES, III, Sheriff
of Bernalillo County, CHARLES COGGINS, a Deputy
Sheriff of the Bernalillo County Sheriff's
Department, and JOHN DOES 1 through
7, Deputy Sheriffs (Deputy Sheriffs) of the Bernalillo
County Sheriff's Department, Individually
and in their Official Capacities,

Defendants.

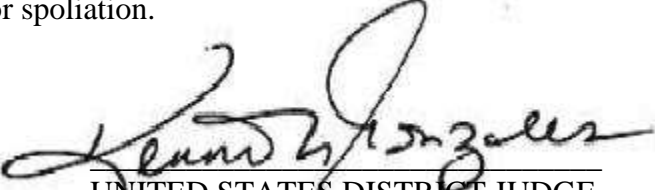
SUMMARY ORDER

This matter comes before the Court on Defendants Board of County Commissioners of the County of Bernalillo, Sheriff Manual Gonzales, III, and Deputy Charles Coggins' (collectively, "County Defendants") Motion to Dismiss No. I: Dismissal of Plaintiffs' Spoliation Claim in Count V (Motion to Dismiss), filed November 29, 2018. (Doc. 90). Plaintiffs filed a response on January 6, 2019, and County Defendants filed a reply on January 21, 2019. (Docs. 98 and 106).

Plaintiffs allege spoliation as a separate claim, Count V, in their Second Amended Complaint, (Doc. 66). Plaintiffs concede, however, spoliation is not a separate cause of action and did not intend to allege it as such, (Doc. 90) at 4. The Court construes Plaintiffs' position as an affirmative waiver of spoliation as a separate cause of action.

Therefore, the Court grants the County Defendants' Motion to Dismiss and hereby dismisses Count V, Spoliation, of the Second Amended Complaint, to the extent that Count V purports to bring a separate cause of action for spoliation.

IT IS SO ORDERED.



UNITED STATES DISTRICT JUDGE